

**PATENT**  
Attorney Docket No. 502119  
Client Reference No.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Brinkman et al.

Art Unit: 3632

Application No.: 10/743,215

Examiner: Steven M. Marsh

Filed: December 22, 2003

For: LABEL HOLDER FOR A SHELF  
PRICE CHANNEL

**ATTACHMENT TO PRE-APPEAL BRIEF REQUEST**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests pre-Appeal Brief Review of the following issues, hopefully to expedite allowance of the claims in the present patent application:

1. Whether there is a motivation for replacing the sign holding portion of Fast (at reference characters 50 and 52), with the sign holding portion of Nagel (11 and 12) for the asserted purpose in the Final Office Action of April 25, 2005 of providing a more secure holding arrangement for a sign. Fast already discloses front and back panel members 16 and 18 providing a label pocket 17 such that there can be no motivation for duplicating structure already provided (See also Applicant's Amendment dated February 1, 2005);
2. Whether an obviousness rejection can be based upon a clear factual error that requires no interpretation, namely the assertion in the Final Office

Action dated April 29, 2005 states that "Fast et al. does not disclose a label holder with a front panel connected to the back panel along the bottom portion to form a cavity therebetween." Fast clearly discloses this exact structure with front and back panels 16 and 18 and cavity 17 (see also col. 4, lns. 40-60) (see also Applicant's Amendment dated February 1, 2005);

3. Whether the asserted modification of Fast et al. by replacing tabs 50 and 52 with the solid panel would render Fast unsatisfactory for its intended purpose in accordance with MPEP § 2143.01. In particular, placing an additional solid panel in front of panel 18 of Fast would defeat the operability of label pocket 17 by providing an additional layer and two additional surfaces through which the label must be seen thus lowering the resolution visibility of labels that are retained in the back pocket; and

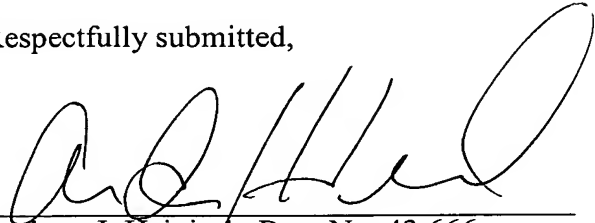
4. Whether the proposed modification changes the principal operation of Fast et al. in violation of MPEP § 2143.02, namely the specific operability of the lip members 50 and 52 as described in col. 5, lns. 7-33. This function is eliminated with a solid panel and no new function added because the modification provides duplicate structure of an enclosed label pocket such as at reference character 17 in Fast et al.

### Conclusion

Based on the foregoing, Applicant is hopeful the rejections will be withdrawn and a Notice of Allowance is forthcoming. Applicant would certainly invite a telephonic interview with any of the three panel members who conduct the pre-Appeal Brief Request as Applicant would certainly like to advance prosecution and move the matter forward in the most efficient manner possible.

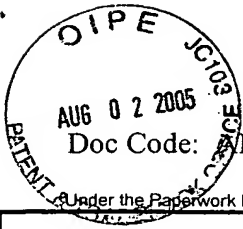
Therefore, should any questions arise which may move the matter forward, please feel free to contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. J. Heinisch', written over a horizontal line.

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Date: July 28, 2005



**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

502119

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on July 28, 2005

Signature Nancy Kloster

Typed or printed name Nancy Kloster

Application Number

10/743,215

Filed

December 22, 2003

First Named Inventor

Michael Brinkman

Art Unit

3632

Examiner

Steven M. Marsh

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 43,666

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

  
Signature

Andrew J. Heinisch

Typed or printed name

815-484-1900

Telephone number

July 28, 2005  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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